

EASTERN DISTRICT OF TEXAS

The court has conducted a *de novo* review of the objections asserted by petitioner. After careful consideration, the court is of the opinion the objections are without merit. Petitioner challenges his sentence for conspiring to possess a controlled substance with the intent to distribute. As petitioner is challenging the validity of his sentence, and not his conviction, he may not assert his ground for review in a petition filed pursuant to 28 U.S.C. § 2241. *Torres v. Young*, 457 F. App'x 427, 428 (5th Cir. 2012); *Padilla v. United States*, 416 F.3d 424, 427 (5th Cir. 2005).

Petitioner asserts this court should follow two decisions from the United States Court of Appeals for the Eleventh Circuit that permit sentences to be challenged in a Section 2241 petition. However, as petitioner is incarcerated within the territorial jurisdiction of the United States Court of Appeals for the Fifth Circuit, this court must apply binding Fifth Circuit precedent.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment shall be entered dismissing the petition.

SIGNED at Beaumont, Texas, this 10th day of March, 2016.

A handwritten signature in black ink, reading "Marcia A. Crone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE